

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Robert Traver on February 11, 2010.

2. The application has been amended as follows:

In claim 1, step b) line 1 after "detecting", --and distinguishing-- has been inserted; then in line 2 after "paternally inherited fetal antigen on", "a" has been deleted and --the-- has been inserted therefor; and then after "fetal cell", --which formed a fetal cell-maternal antibody complex-- has been inserted.

Claim 1 should therefore recite:

*1. A method of identifying a fetal cell in a maternal blood sample, the method comprising:*

*a) obtaining a sample of maternal blood that contains one or more fetal cells; and*

*b) detecting and distinguishing a maternal antibody from the mother bound to a paternally inherited fetal antigen on the fetal cell which formed a fetal cell-maternal antibody complex, to thereby identify the fetal cell.*

In claim 5, step a) after "contacting cells", "in the" has been deleted and --isolated from maternal blood-- has been inserted therefor.

In claim 5, step b) line 1 after "detecting", --and distinguishing-- has been inserted; then after "a maternal antibody from the mother", --which-- has been inserted; then after "bound to a", --paternally-inherited fetal antigen on a-- has been inserted; then after "fetal cell", --thus forming a fetal cell-maternal antibody complex to thereby identify the fetal cell-- has been inserted.

In claim 5, step b) lines 2-3 after "maternally produced antibodies specific for paternally-inherited fetal antigens", ", to thereby identify the fetal cell" has been deleted.

Claim 5 should therefore recite:

*5. A method of identifying a fetal cell in a sample, the method comprising:*

*a) contacting cells isolated from maternal blood sample with maternal antibodies, and*  
*b) detecting and distinguishing a maternal antibody from the mother which bound to a paternally inherited fetal antigen on a fetal cell thus forming a fetal cell-maternal antibody complex to thereby identify the fetal cell, wherein the maternal antibodies comprise maternally produced antibodies specific for paternally- inherited fetal antigens.*

In claim 13, lines 3-4 after "a paramagnetic particle, a", "chemoluminescent" has been deleted and --chemiluminescent-- has been inserted therefor; then after "label," --and-- has been inserted; and then after "an enzymatic label", "and a label that is detectable by binding to a molecule" has been deleted.

Claim 13 should therefore recite:

*13. The method according to claim 12, wherein the label is selected from the group consisting of: a fluorescent label, a radioactive label, a paramagnetic particle, a chemiluminescent label, and an enzymatic label.*

In claim 14, line 3 after "contacting the", "cells bound by agent" has been deleted and --detectable agent labeled fetal cell-- has been inserted therefor.

Claim 14 should therefore recite:

*14. The method of claim 13, wherein the label is a paramagnetic particle and wherein the step of detecting the fetal cell-maternal antibody complex comprises contacting the detectable agent labeled fetal cell-maternal antibody complexes to a magnet.*

3. The following is an examiner's statement of reasons for allowance: by amending claims 1 and 5 to recite, "detecting and distinguishing a maternal antibody from the mother bound to a paternally inherited fetal antigen on a fetal cell which formed a fetal cell-maternal antibody complex", the maternal antibodies from the mother that bound to a subpopulation of maternal cells in the circulation that may be present in the maternal blood sample shown in Applicant's disclosure at page 3, last full paragraph, are excluded in the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GAIENE R. GABEL whose telephone number is (571)272-0820. The examiner can normally be reached on Monday, Tuesday, Thursday, 5:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Shibuya can be reached on (571) 272-0806. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GAILENE R. GABEL/  
Primary Examiner, Art Unit 1641

February 12, 2010